

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad SMC Bench, Hyderabad
(Through Video Conferencing)
Before Smt. P. Madhavi Devi, Judicial Member

ITA Nos.1491 & 1492/Hyd/2019		
Assessment Year: 2011-12		
Shri Prem Chander Maragani, San Diego, USA	Vs.	Income Tax Officer, International Taxation-2 Hyderabad
(Appellant)		(Respondent)
Assessee by:		Sri S. Rama Rao
Revenue by:		Sri Sunil Kumar Pandey, DR
Date of hearing:		23/12/2020
Date of pronouncement:		31/12/2020

ORDER

These are assessee's appeals for the A.Y 2011-12 against the order of the CIT (A)-10, Hyderabad, dated 25.07.2019.

2. Brief facts of the case are that the assessee is an individual and an NRI. As per the information received from the Director of Income Tax (I&CI), the assessee being the co-owner of the property along with 7 others had sold a property to one Shri Rajesh Nahata for a total consideration of Rs.50.00 lakhs as against the market value of Rs.86,83,000/- through sale deed No.679/2011, dated 23.03.2011. Since the assessee had not filed the return of income for the A.Y 2011-12 admitting the above transaction, proceedings u/s 147 were initiated and during the assessment proceedings the assessee was asked to furnish details of the transaction. However, none appeared for the assessee and neither was any explanation given and therefore, the AO has invoked the provisions of section 50C and considered the sale

consideration as Rs.86,83,000/- and treated 1/8th share as the assessee's share in the property at Rs.10,85,375/- and brought it to tax. Aggrieved, the assessee preferred an appeal before the CIT (A) challenging the application of Section 50C of the Act and also computation of the capital gain without considering the cost of acquisition of the property. The CIT (A) called for a remand report from the AO on the submissions made by the assessee and the AO reported that the notices u/s 148 and also 142(1) were sent to the assessee through speed post and the same were served on the assessee. However, the AO did not mention anything about the merits of the case or the cost of acquisition for computing the capital gain tax. The CIT (A) after considering the remand report of the AO, has held that in the appellate proceedings, the assessee has furnished certain details and copies of the documents but there was no request for admission of additional evidence. Therefore, he did not admit the additional evidence and did not allow the cost of acquisition. Against this order of the CIT (A), the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. The order of the learned CIT (A) is erroneous to the extent it is prejudicial to the appellant.*
- 2. The learned CIT (A) erred in confirming the determination of capital gain without allowing cost of acquisition of the property.*
- 3. Any other ground or grounds that may be urged at the time of hearing”.*

3. The learned Counsel for the assessee submitted that the relevant papers were filed before the CIT (A) and requested that the CIT (A) or the AO may be directed to allow the cost of acquisition while computing the capital gain.
4. The learned DR was also heard.

5. Having regard to the rival contentions and the material on record, I deem it fit and proper to admit the additional evidence submitted by the assessee and allow the cost of acquisition while computing the capital gain. The issue is set aside to the file of the AO for denovo re-consideration. Needless to mention that the Assessee shall be given a fair opportunity of hearing.

6 In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 31st December, 2020.

Sd/-

**(P. MADHAVI DEVI)
JUDICIAL MEMBER**

Hyderabad, dated 31st December, 2020.

Vinodan/sps

Copy to:

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- 2 ITO (International Taxation)-II, Aayakar Bhavan, Basheerbagh, Hyderabad 500029
- 3 CIT (A)-10 Hyderabad
- 4 Pr. CIT – (IT & TP) Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order